165-194

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1896.

No. 338.

HENRY SANFORD, PRESIDENT OF THE ADAMS EXPRESS COMPANY, APPELLANT,

vs.

EBENEZER W. POE, AUDITOR OF THE STATE OF OHIO, ET AL.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

FILED SEPTEMBER 23, 1895.

(16,028.)

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., JULY 13, 1896.

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1 *Transcript of Record.*

THE UNITED STATES OF AMERICA, *Southern District of Ohio, Eastern Division,* } *ss:*

At a stated term of the circuit court of the United States of America, within and for the eastern division of the southern district of Ohio, in the sixth judicial circuit of the United States of America, begun and had in the court-rooms at the city of Columbus, Ohio, in said district, on the first Tuesday of December, being the fourth day of that month, in the year of our Lord one thousand eight hundred and ninety-four, and of the Independence of the United States of America the one hundred and nineteenth.

Present: The Honorable William H. Taft, circuit judge.

Among the proceedings had were the following, to wit:

HENRY SANFORD, President of the Adams Express Company, Plaintiff,
vs.
EBENEZER W. POE, Auditor of the State of Ohio, Defendant. } No. 706. Chancery.

Be it remembered, that heretofore, to wit, on the fifth day of September in the year of our Lord one thousand eight hundred and ninety-four came the complainant, by his solicitors and filed in the clerk's office of said court his certain bill of complaint herein against the defendant. Said bill of complaint is clothed in the words and figures following, to wit:

2 *Bill of Complaint.*

United States Circuit Court, Southern District of Ohio, Eastern Division.

HENRY SANFORD, President of the Adams Express Company, Plaintiff,
vs.
EBENEZER W. POE, Auditor of the State of Ohio, Defendant. } No. 706. Bill of Complaint.

To the judges of the circuit court of the United States for the southern district of Ohio, eastern division:

Henry Sanford, of New York, and a citizen of the State of New York, brings this his bill against Ebenezer W. Poe, a citizen of the State of Ohio, residing in the eastern division, of the southern district of said State. And thereupon your orator complains and says:

That he is the president and a shareholder of the Adams Express Company, which is a copartnership, organized many years ago as

a joint stock association, under the laws of the State of New York, and ever since existing and doing business as such. Said company consists of about 3,000 partners or shareholders owning 120,000 shares, all of whom have a joint ownership and interest in the cause of action hereinafter set forth. By the laws of the State of New York, under which said company was organized and now exists, it is authorized and empowered to sue and be sued in the name of its president, who is your orator, and as such president and shareholder in said company he brings this suit in behalf of said association and all the shareholders thereof, who are too numerous to be joined as parties hereto. The following is one of the provisions of the law of the State of New York, under which said company is organized, to wit:

"Any joint stock company or association consisting of seven or more shareholders or associates, may sue or be sued in the name of the president or treasurer for the time being of such joint stock company or association; and all suits and proceedings so
3 prosecuted by or against said joint stock company or association, and the service of all process or papers in such suits and proceedings, on the president or treasurer for the time being of such joint stock company or association shall have the same force and effect, as regards the joint rights, property and defects of said joint stock company or association, as if the suits and proceedings were prosecuted in the names of all the shareholders or associates in the manner now provided by law. No suits so commenced shall abate by reason of the death, removal or resignation of such president or treasurer of such joint stock company or association, or the death or legal incapacity of any shareholder or associate during the pendency of such suit; but the same may be continued by or against the successor of the officer in whose name such suit shall have been commenced. * * * No death, removal or resignation of officers or shareholders or sale or transfer of stock shall work a dissolution of any such joint stock company or association, as against the party suing or being sued by such company, as herein provided."

That said Ebenezer W. Poe is auditor of the State of Ohio; that on May 10, 1894, the General Assembly of said State passed a bill for the taxation of express, telegraph and telephone companies doing business in said State, by the terms of which the auditor, attorney general and treasurer of State, are designated a State board of appraisers and assessors for said express, telegraph and telephone companies, of which board the auditor of State is *ex officio* president. Said act by its terms requires said board to value and assess the property of said companies in the following manner, to wit:

"SEC. 2778*a*. Every express, telegraph and telephone company embraced in section 2777, whether chartered by the laws of this State, or by any other State or country, doing business in this State, shall, annually, between the first and tenth day of May return to the auditor of State, under the oath of its treasurer, the amount of its capital stock, its place of business, the par value and market value (or if there be no market value, then the actual value) of its shares at the time of said return. The return shall also contain a

statement in detail of the entire real and personal property of said company, and where located, and the value thereof as assessed for taxation; the telegraph and telephone companies shall, in addition thereto, return the whole length of their lines, and the length of so much of their lines as is without and is within the State of
4 Ohio, which lines shall include what said telegraph and telephone companies control and use under lease or otherwise; and said board of appraisers and assessors shall, in the determining the value of the property of said companies in this State, to be taxed within the State and assessed as herein provided, be guided by the value of said property as determined by the value of the entire capital stock of said company, and such other evidence and rules as will enable said board to arrive at the true value in money of the entire property of said companies within the State of Ohio, in the proportion which the same bears to the entire property of said company, as determined by the value of the capital stock thereof, and the other evidence and rules as aforesaid. Express companies shall, in making said returns, include therein, as a part thereof a statement of their entire gross receipts for the year ending the first day of May, of the business done within the State of Ohio, giving the receipts of each office in said State and the location thereof for said year."

That said express company is, and for a great many years last past had been engaged in the express business in the United States which business consists in carrying packages on passenger and express trains, steamboats and stages in the care and custody of the employés of the company who always accompany the packages. The company has no ownership of or interest in any of the said means of conveyance in the State of Ohio, but merely pays the railroad companies and the owners of steamboats and stage coaches in said State for the passage of its messengers and their accompanying packages. Aside from certain real estate owned by said company in Hamilton county, Ohio, used by it, for stabling purposes and there duly assessed for taxation, it has no property in the State of Ohio, except certain horses, wagons, harness, trucks, safes and office fixtures, located at different points in the State, the items of principal value being horses, wagons and trucks, which are used by the company in the collection and delivery of packages in the various towns and cities. There is nothing peculiar about any of said property; it is of the ordinary kind, whose true value in money is easily ascertained and determined by ordinary standards. Your orator insists that in ascertaining and determining the value of said property, it is neither necessary -or proper to take into consideration either the par or market value of the company's shares, or the character and amount of its property, real or personal, in other States or the amount of the gross receipts of the company from its business in Ohio and elsewhere; but that said property should be
5 valued in its hands as similar property is valued in the hands of all other owners; that a horse is a horse, harness is harness, a wagon is a wagon, a truck is a truck, and a safe is a safe, whether owned by express companies or by other persons or asso-

ciations, and the value of such property should be ascertained and determined for purposes of taxation against express companies according to their true value in money of such articles as determined by their market price, which is the method adopted by the State in valuing similar property and all other property in the hands of all other persons, associations and corporations.

That, nevertheless, at the request of said Poe, auditor of State, but denying his right, and the right of said board to require it to make any such report of statement, your orator made a statement as required by said pretended act of May the 10th, 1894, showing the amount of its shares and the market value thereof, so far as said market value could be shown, the taxable value of said real estate owned by said company in Ohio, the value of the personal property, including moneys and credits of the company in Ohio, the total value of its real estate, outside of Ohio, the total value of its tangible personal property outside of Ohio, the entire gross receipts received by the company within the State of Ohio, for the year preceding the 1st of May, 1894, the total mileage of its routes in the United States, together with the length of its lines within the State of Ohio, a copy of which report is filed herewith, marked "Exhibit A."

The true value in money of all the company's property in the State, aside from its real estate, upon which all taxes have been paid, together with the moneys and credits of the company within the State, is given in Schedule B of said report, and amounts in all to the sum of $41,102.60.

That acting under the requirements of said statute, and not in the exercise of their individual judgment of the true value in money of said company's property in the State, said board of appraisers and assessors made an assessment, fixing the amount upon which said company is to be assessed for taxation in Ohio, for the year 1894, at the sum of $—, wrongfully pretending that said sum is the value of said company's property in the State of Ohio; that said State board has reported or will shortly report said valuation to the auditor of State as required by section 2780 of said act, and the auditor of State, unless restrained by this court, will, in pursuance of said section, after deducting the value of said company's said real estate in the State of Ohio, as assessed for taxation,
6 apportion said total valuation and assessment among the several sixty-six counties in which the company does business, in the proportion that the gross receipts in each county bear to the entire gross receipts in the State; and said several county auditors will, on receipt of such certification from the auditor of State, place the valuation assigned to their respective counties on the tax duplicate, to the end that taxes may be levied and collected thereon, as on personal property in such taxing district.

The rate of taxation in Ohio for the year 1894 varies according to the county from two to three per cent., so that the aggregate assessment against your orator upon said illegal and excessive valuation will amount to between — and —; and in one or more of the counties of the State not only the assessment, but the difference be-

tween the assessment under said valuation and the assessment upon a true and lawful valuation of said company's property, will exceed $2,000.

That the principal business of said company and of all other express companies doing business in the State of Ohio, and subject to said act of May 10, 1894, is interstate commerce, to wit: the carriage of express matter between different States of the Union. More than three-fourths of the business done by it and them in the State of Ohio is interstate commerce or the transportation of express matter across said State between other States, and between points in said State and points in other States, although a portion of their business does consist in the transportation of express matter from one point to another in the State of Ohio.

Your orator insists that said act of May 10, 1894, is in contravention of the Constitution of the United States, especially of the interstate-commerce clause of section 8, article 1; of section 2, article 4; and of section 1, article 14—and of the constitution of the State of Ohio, especially sections 2 and 5 of article 12, and section 1 of article 2. It does not provide a method for the taxation of property of express companies according to its true value in money as required by the constitution of the State, or by uniform rule as compared with other property in the State, but is really an attempt to enforce against express and telegraph companies, the principal business of all those doing business in the State of Ohio and in the United States being interstate commerce, the payment of a tax for the privilege of doing such business in said State, by placing a fictitious value upon their property. The scheme of taxation contemplated by said law, while professing to provide for taxa-
7 tion of property in the State of Ohio, does not, in fact do so inasmuch as it directs the State board of appraisers, in determining the value of the property of express companies in said State for purposes of taxation, to be "guided by the value of said property as determined by the value of the entire capital stock of said companies * * * in the proportion which the same (viz—the properties of the companies within the State) bears to the entire property of said companies, as determined by value of the capital stock thereof;" whereas the value of the capital stock or shares of said company and of express companies generally is determined, not so much by the value of the property or tools which they use in carrying on the business, as by the skill, diligence, fidelity and success, with which they conduct their business. Said company employs many thousands of men, who are constantly engaged in carrying express packages, many of them of great value, from one part of the country to another, and its income and the value of its shares are largely the results of their efforts, fidelity and integrity, and of skillful management and supervision of the business. Said company furthermore owns bonds, stocks and other securities aggregating millions of dollars, none of which are held, or taxable in the State of Ohio, and many of them not taxable at all, all of which however, together with the business connections of the company and the reputation and good will, which it has earned in the course of

more than fifty years of public service, enter largely into the value of its capital shares. Nor can the value of the company's property in the State of Ohio be ascertained, even approximately, by applying or considering the proportions which its routes in Ohio bears to the total mileage of its routes, because its earnings are not uniform and in Ohio are less than its average earnings per mile of all its routes. Nor does the market price of the company's shares afford any fair, reasonable or just method of estimating the value of its property or fixing a basis of value for the purpose of taxation, because the market price is speculative and variable, depending upon financial and other conditions not at all connected with the company, its business or its property. And your orator insists that said scheme of taxation is unfair, illegal, unjust and unequal, and is a regulation of and tax upon interstate commerce and a taking of its property without due process of law, which, if enforced against his company, will destroy the value of its business in Ohio and compel it to abandon the State, to its great and irreparable injury.

8 Said company has duly reported to the auditor of State and to the various county auditors the amount in value of all of its personal property including moneys and credits in the various counties in the State, as set forth in Schedule B of Exhibit A. None of the assessments of taxes for the year 1894 have yet been made, nor the rates determined, so that said company, although ready and willing has not been able to pay or tender the taxes properly assessable against it in the various counties for the year 1894; but it is able, ready and willing to pay the same as soon as they are assessed or the amount can be ascertained and your orator offers so to do and offers as a condition of obtaining a preliminary or perpetual injunction under this bill, to pay the approximate or estimated sums properly assessable against it into the registry of the court, or otherwise to make such deposit or give such security as the court may direct.

On November the 22d, and November the 23rd, 1893, the Western Union Telegraph Company, the Adams Express Company, the American Express Company and the United States Express Company filed their separate bills in this court against said Ebenezer W. Poe, then as now auditor of the State of Ohio; John K. Richards, attorney general of the State of Ohio, and William T. Cope, treasurer of the State of Ohio, constituting a State board of appraisers and assessors for the assessment and valuation of the property of express, telegraph and telephone companies, under the acts of the General Assembly of the State of Ohio, of April the 27th, 1893, which act is in many respects similar to the said act of May the 10th, 1894, to enjoin the assessments made by said State board against said companies respectively under said act for the year 1893, upon the ground *of* said act of 1893 was in contravention of the constitutions of the State of Ohio and of the United States. Upon the filing of said bills, restraining orders were issued in each of said cases, restraining the defendants in accordance with the prayers of the respective bills, upon certifying the appraisements and assessments made by said State board to the auditors of any of the counties of

the State. The defendants filed motions in each of said cases to dissolve said restraining orders, and also demurrers to said bills, which motions and demurrers were argued before the circuit judge in the latter part of December, 1893, and by order of the court, reargued on March 23, 1894. On March the 14th, 1894, the circuit judge, on ordering said reargument, filed a provisional opinion, which led the defendants to apprehend that his decisions upon the
9 motions and demurrers would be adverse to them. Thereupon, for the purpose of anticipating the judgment of this court upon the questions involved in said cases the said defendants commenced a suit in mandamus upon their own relation in the supreme court in the State of Ohio against Charles H. Jones, auditor of Lucas county, Ohio, to compel him to place upon the tax duplicate for the year 1893, the sum of $754.00 against the National Express Company in order that the same might be assessed under said law of April 27, 1893, and the taxes thereon collected. The petition in said suit was filed on March 19, 1894. The taxes for the year 1893 assessable in Lucas county, against said National Express Company on account of said valuation of $754.00 would amount to the sum of $21.36. On March 16, 1894, three days before the commencement of said suit in mandamus, said National Express Company had paid to the treasurer of Lucas county, on account of its taxes for the year 1893, $23.44, or more than was claimed to be due from it including penalties under said mandamus suit; in other words all of the taxes due from said National Express Company in Lucas county in any view of the law, had been fully paid prior to the commencement of said mandamus suit, as said defendants well knew and there was no real controversy or subject-matter of controversy upon which to base said suit; and the same was gotten up by said defendants for the sole purpose of anticipating the decision of this court, and of any Federal court to which the case then pending herein, might be taken on appeal, and of controlling the decision of the Federal courts upon the questions involved. The petition in said suit in mandamus stated that the auditor of said county refused to make entry on the tax duplicate of the amount due from the said National Express Company, but your orator will show to the court that such refusal, if in fact made, was at the instance and request of said defendants in this suit, and for the sole purpose of raising a plausible excuse for their said moot case. Your orator will further show that the counsel who appeared for the defendant in said moot case, was selected by said defendants in this court and that he substantially adopted the answer prepared by them.

On April 23, 1894, this court filed its opinion holding said act of April 27, 1893, to be in contravention of the constitution of the State of Ohio, without passing upon or reaching the question of its validity under the Constitution of the United States.

10 Subsequently on or about June 17, 1894, the supreme court of Ohio, filed an opinion in said mandamus case, holding that said act was a valid law, but without noticing or passing upon the real and substantial objections to its validity, which indeed,

were not presented by the record or by proper allegations of the facts.

Your orator is advised that the defendants will claim that said decision of the supreme court of Ohio is binding upon this court as respects the validity of said act of May 10, 1894, so far as the constitution of the State of Ohio, is concerned, but your orator, for the reasons aforesaid, respectively submits that the rights and interests of his company and of said other express companies and of said telegraph company should not be affected or controlled in this court by said proceedings.

Said Poe and said State board refused to let your orator's said company know the amount of the said assessment made by the said State board against said company, but conceal the same for the purpose as your orator is informed and believes and therefore charges, of preventing your orator from obtaining the relief sought in this bill, although said company has notified said Poe and said board that it desires to know the amount of said assessment, to the end that it may apply to said board for the correction thereof, as provided by the statutes and your orator insists that the said assessment is for that reason illegal. Your orator is informed and believes that said assessment is many times the true value in money of the property of your orator subject to taxation, and such as to give this court jurisdiction, and he asks leave upon ascertaining the figures to insert them in this bill.

Unless your orator can obtain the injunction prayed for in this bill against the auditor of State, said company will be obliged to bring sixty-six separate suits for injunction against the various county auditors of the State, or to defend against sixty-six separate suits for the collection of the taxes in said various counties. To the end, therefore that your orator and said company may not be subjected to the multiplicity of suits which would otherwise be necessary, and that said company may be spared irreparable injury, your orator prays for a writ of subpœna against said Ebenezer W. Poe to appear and make full and true answer to this bill and not under oath, and upon the final hearing of the cause, that he may be perpetually enjoined from proportioning or certifying the said assessment made by said State board against said company to the auditors of any of the counties of the State; that in the meantime a restraining
11 order and an injunction may be issued pending the suit, to the same effect, and that upon the final hearing, your orator may have all other relief to which he may be entitled in equity.

RAMSEY, MAXWELL & RAMSEY,
Attorneys for Plaintiff.

And afterwards, to wit, on the 5th day of September, A. D. 1894, the following Exhibit B was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

EXHIBIT "B."

1894.

Annual statement of the property of the Adams Express Company, a copartnership transacting an express business on railway routes between Boston, Mass., and Denver, Colo., subject to taxation in the State of Ohio, as required by section- 2777, 2778, 2778*a*, 2779, 2780 of the Revised Statutes, as amended and supplemented by an act passed May 10th, 1894, as existing on the 1st day of May, 1894.

AUDITOR OF STATE'S OFFICE, COLUMBUS, OHIO.

To express companies:

This form is submitted for the purpose of procuring property statements from each express company doing business in Ohio. All statements furnished must be made on this blank, and the items called for therein must be given in full. This report must be made out and sworn to by the president, secretary, treasurer, superintendent or chief officer of such company, and filed in the auditor of State's department on or before May 10th of each year.

Respectfully,

E. W. POE,
Auditor of State.

Nature of company, whether person or persons, association or corporation: Copartnership.

12 Under the laws of what State or county organized: New York.

Location of principal office, 59 Broadway, New York.

Give the name and post-office address of each of the following officers:

President, Henry Sanford, New York.
Secretary, C. A. Seward, New York.
Auditor, C. P. Diefendorf, New York.
Treasurer, W. L. Hubbell, New York.

Superintendent or general manager, Henry Bimple, Columbus, Ohio.

Chief officer or managing agent in Ohio, Henry Bemple, Columbus, Ohio.

Number of shares, 120,000.
Par value of share, —.

Market value, $—, (if there be no market value give the actual value), fluctuating	$140 to 150
Taxable value of real estate owned by the company in Ohio	25,170 00
Value of personal property, including moneys and credits owned by the company in Ohio	41,102 60
Total value of real estate owned outside of Ohio	3,005,157 52
Total value of personal property owned outside of Ohio	1,135,162 33

Entire gross receipts from whatsoever source derived	
Entire gross receipts from whatever source derived within the State	301,983 00
Whole length of lines of rail and water routes over which the company is doing business	31,000 miles.
Length of such lines without the State	— miles.
Length of such lines within the State	2,316 miles.

SCHEDULE A.—*Detailed Statement of the Value of the Real Property as Assessed for Taxation in Each Township, City, Village, and Special School District, with Total for Each County.*

NOTE.—In all sums reported omit the use of cents.

13

1 Names of counties.	2 Names of townships, cities, villages, and special school districts.	3 Value of real estate and b'ld'gs as assessed for taxation.	4 Total value in county.
Hamilton	Cincinnati	$25,170	

SCHEDULE B.—*Detail Inventory of the Personal Property, Including Moneys and Credits, in Each Township, City, Village, and Special School District, with Total for Each County.*

Names of counties.	Names of townships, cities, villages, and special school districts.	Value of personal property, moneys, and credits.	Total value of county.
Adams	Irvington	$4 20	
	Manchester	8 00	
	Newport	5 70	
	Peebles	10 90	
	Seaman	14 45	
	Winchester	23 85	
			$67 10
Allen	Delphos	$29 30	
	Elida	4 85	
	Lima	398 00	
			$432 15
Ashland	Loudonville	$9 90	
	Perrysville	4 80	
			$14 70

Schedule B—(Continued).

Names of counties.	Names of townships, cities, villages, and special school districts.	Value of personal property, moneys, and credits.	Total value of county.
Ashtabula	Ashtabula	$41 50	
	Austinburg	5 60	
	Eaglesville	6 10	
	East Orwell	26 40	
	Harbor	7 90	
	New Lynne	8 90	
	Rock Creek	13 80	
	Rome	15 40	
			$125 60
14			
Athens	Athens	$22 30	
	Buchtel	17 50	
	Glen Ebon	65	
	Nelsonville	17 00	
			$57 45
Belmont	Bellaire	$29 20	
	Bridgeport	36 00	
	Kelsey	65	
	Martin's Ferry	24 50	
			$90 35
Brown	Eastwood	$6 10	
	Mt. Oreb	14 70	
	Sardinia	26 60	
	So. Fincastle	5 65	
			$53 05
Butler	Hamilton	$567 00	
	Middletown	96 20	
			$663 20
Carroll	Augusta	$5 60	
	Malvern	5 15	
	Mechanicstown	6 10	
	Oneida	16 00	
	Wattsville	65	
			$33 50
Champaign	Cable	$11 70	
	St. Paris	16 20	
	Urbana	159 00	
	Westville	65	
	Woodstock	65	
			$188 20

Schedule B—(Continued).

Names of counties.	Names of townships, cities, villages, and special school districts.	Value of personal property, moneys, and credits.	Total value of county.
15			
Clark	Selma	$12 60	
	So. Charleston	40 85	
	Springfield	925 55	
			$979 00
Clermont	Batavia	$23 00	
	Branch Hill	1 00	
	Loveland	7 00	
	New Richmond	24 50	
	Williamsburg	23 20	
			$78 70
Clinton	Clarksville	$ 65	
	Ogden	65	
	Sabina	65	
	Wilmington	134 20	
			$136 15
Columbiana	Bayard	$31 20	
	Columbiana	22 20	
	East End	5 15	
	East Liverpool	272 39	
	East Palestine	7 00	
	East Rochester	65	
	Homeworth	65	
	Kensington	20 00	
	Leetonia	24 50	
	Mill Rock	7 65	
	Moultrie	65	
	New Lisbon	23 60	
	Salem	382 35	
	Salineville	31 20	
	Signal	5 15	
	Summitville	65	
	Wellsville	72 20	
			$907 19
16			
Coshocton	Blissfield	$1 00	
	Conesville	1 00	
	Cooperdale	65	
	Coshocton	36 22	
	Isleta	1 00	
	Layland	1 00	

Schedule B—(Continued).

Names of counties.	Names of townships, cities, villages, and special school districts.	Value of personal property, moneys, and credits.	Total value of county.
.....	Tunnel Hill.....	$ 65	
.....	Wakatomika.....	8 00	
.....	Warsaw	8 00	
.....	West Lafayette....	50	
			$58 02
Crawford.....	Bucyrus.....	$205 00	
.....	Crestline	275 10	
.....	New Washington..	5 00	
.....	Tiro	5 15	
			$490 25
Cuyahoga.....	Bedford	$ 65	
.....	Cleveland	4,042 90	
.....	Newburg	8 25	
			$4,051 80
Darke	Greenville.....	$101 00	
.....	Horatio	1 00	
.....	New Madison	1 00	
....	Pikeville	50	
.....	Woodington	65	
			$104 15
Delaware	Condit	$ 65	
.....	Galena	8 00	
.....	Sunbury.....	65	
			$9 30
17			
Fairfield	Bremen	$ 65	
.....	Carroll...	9 60	
.....	Lancaster.	234 55	
.....	Stoutsville.....	65	
... .	Sugar Grove	65	
			$246 10
Fayette	Washington C. H..	$190 27	
			$190 27
Franklin.....	Canal Winchester..	$12 07	
.....	Columbus	2,536 67	
.....	Groveport	6 10	
.....	Hilliards	1 00	
....	Marble Cliff.....	1 00	
.....	Westerville	23 73	
			$2,580 57
Gallia	Addison	$ 65	
.....	Alice.....	65	

Schedule B—(Continued).

Names of counties.	Names of townships, cities, villages, and special school districts.	Value of personal property, moneys, and credits.	Total value of county.
.....	Bedwell	$ 65	
.....	Cheshire.....	65	
.. ..	Ewington	7 87	
....	Gallipolis.....	116 44	
.....	Vinton	65	
			$127 56
Greene	Cedarville	$14 98	
.....	Roxanna	65	
....	Spring Valley.....	5 60	
....	Xenia.....	280 50	
.....	Yellow Springs....	4 20	
			$305 93
Guernsey.....	Cumberland	$6 10	
			$6 10
18			
Hamilton	Cincinnati.....	$16,426 48	
.....	Columbia.....	1 40	
.....	Linwood	1 40	
.....	Milford.....	7 00	
.....	Newtown.....	1 00	
.....	Norwood Heights..	1 40	
.....	Terrace Park... ..	11 30	
			$16,449 98
Hardin	Ada	$11 77	
.....	Dunkirk	15 40	
.....	Forest.....	18 70	
			$45 87
Harrison.....	Bowerston	$19 60	
.....	Cadiz	12 84	
.....	Cadiz Jct.....	50 68	
.....	Conotton	1 00	
.....	Jewett	7 60	
.....	Miller's	5 60	
.....	Phila. Roads.....	7 60	
... .	Scio.....	14 70	
			$119 62
Highland	Hillsboro	$59 73	
.....	Taylorsville.....	65	
			$60 38
Hocking	Brashears	$ 65	
... .	Carbon Hill.....	65	
.....	Greendale	65	
... .	Haydenville	65	

Schedule B—(Continued).

Names of counties.	Names of townships, cities, villages, and special school districts.	Value of personal property, moneys, and credits.	Total value of county.
.....	Jobs	$19 24	
.....	Logan	40 67	
.....	Longstreth	65	
.....	Monday	65	
.....	Murray City	65	
.....	New Pittsburgh ...	1 25	
... ...	Rockbridge	65	
.....	Union F'ce	65	
			$67 01
19			
Holmes	Holmesville	$13 34	
.....	Killbuck	43 17	
.....	Millersburg	18 07	
.....	Pictoria	12 60	
			$87 18
Jefferson	Bergholz	$ 65	
... ...	Bloomfield	1 00	
.... ..	Brilliant	1 00	
.....	Brown's	65	
.....	Empire	9 20	
... .	Hammondsville ...	65	
.....	Irondale	2 34	
.....	Mingo Jct	16 80	
.....	Port Homer	5 54	
.....	Portland	1 25	
.....	Rush Run	65	
.....	Skelley's	1 00	
.....	Steubenville	414 98	
... .	Toronto	6 50	
.....	Unionport	7 60	
			$469 81
Knox	Bangs	$5 60	
.....	Brinkhaven	11 67	
.....	Centerburg	20 87	
.....	Danville	15 94	
.....	Gambier	1 27	
... .	Howard	13 07	
.....	Mt. Liberty	65	
.....	Mt. Vernon	198 90	
			$267 97
Lawrence	Ironton	$151 67	
			$151 67

Schedule B—(Continued).

Names of counties.	Names of townships, cities, villages, and special school districts.	Value of personal property, moneys, and credits.	Total value of county.
Licking.....	Hanover.....	$1 00	
....	Kirkersville.....	1 00	
.....	Newark	242 41	
			$244 41
20			
Lucas	Toledo	$1,556 67	
			$1,556 67
Madison	London	$45 74	
.....	Plain City	18 07	
.....	West Jefferson	12 90	
			$76 71
Mahoning.....	Beloit.....	$4 57	
.....	Berlin Centre	65	
.....	Ellsworth	3 04	
.....	Lowellville	65	
.....	No. Benton	7 87	
.....	No. Jackson	2 34	
... ..	Snodes	1 00	
.....	Struthers	65	
.....	Youngstown	440 54	
			$461 31
Meigs	Middleport	$7 57	
.....	Pomeroy	32 13	
			$39 70
Miami...	Bradford	$35 40	
.....	Conover.....	1 00	
.....	Covington.....	1 47	
.....	Fletcher.....	23 40	
.....	Piqua...	201 67	
			$262 94
Monroe	Baresville	$1 27	
.. ..	Beallsville...	65	
.....	Jerusalem	65	
.....	Lewisville	65	
.....	Sardis.....	1 27	
.....	Woodsfield	65	
			$5 14
21			
Montgomery	Brookville.....	$7 90	
....	Dayton.....	1,685 57	
....	Miami City	132 64	
			$1,826 11

Schedule B—(Continued).

Names of counties.	Names of townships, cities, villages, and special school districts.	Value of personal property, moneys, and credits.	Total value of county.
Morgan	Durant	$ 90	
	Eagleport	1 20	
	Hooksburg	5 47	
	Malta	36 87	
	McConnellsville	16 80	
	Shawnee Jct	1 20	
	Stockport	5 45	
			$67 89
Muskingum	Black Run	$1 00	
	Chandlersville	65	
	Dresden	1 00	
	Frazeysburg	14 34	
	Freeland	1 00	
	Gaysport	5 54	
	Philo	1 00	
	Roseville	65	
	Sealover	1 00	
	Spratt	65	
	Trinway	112 67	
	Zanesville	533 28	
			$672 78
Noble	Belle Valley	$ 65	
	Caldwell	6 07	
	Mt. Ephraim	5 90	
	Summerfield	19 90	
			$32 52
Perry	Crooksville	$ 65	
	Junction City	28 94	
	Mt. Livney	5 58	
	New Lexington	29 40	
	New Straitsville	6 00	
			$70 57
Pickaway	Atlanta	$ 65	
	Circleville	256 40	
	Kinderhook	65	
	New Holland	65	
	Williamsport	12 94	
			$271 29
Portage	Atwater	$9 10	
	Deerfield	5 58	
	Earlville	1 07	

Schedule B—(Continued).

Names of counties.	Names of townships, cities, villages, and special school districts.	Value of personal property, moneys, and credits.	Total value of county.
.....	Palmyra	$6 00	
.....	Ravenna	145 07	
.....	Rootstown	7 00	
			$173 82
Preble	Eaton	$6 15	
.....	El Dorado	4 57	
.....	New Paris	5 14	
.....	West Manchester ..	1 00	
			$16 86
Richland	Lucas	$ 65	
.....	Mansfield	599 67	
			$600 32
Sandusky	Helena	$1 00	
.....	Woodville	65	
			$1 65
Scioto	Otway	$1 40	
.....	Portsmouth	413 67	
.....	Rarden	5 60	
			$420 67
23			
Seneca	Bloomville	$ 64	
.....	Carrothers	5 45	
.....	Linden	65	
.....	Tiffin	345 97	
			$352 72
Stark	Alliance	$839 18	
.....	Canton	969 91	
.....	Louisville	6 53	
.....	Magnolia	65	
.....	Massillon	169 34	
.....	Maximo	65	
.....	Minerva	20 00	
.....	Paris	65	
.....	Waynesburg	11 90	
			$2,018 81
Summit	Akron	$625 84	
.....	Barberton	8 10	
.....	Clinton	65	
.....	Cuyahoga Falls ...	33 30	
.....	Hudson	103 20	
.....	Macedonia	6 50	
.....	So. Akron	1 00	
			$778 59

Schedule B—(Continued).

Names of counties.	Names of townships, cities, villages, and special school districts.	Value of personal property, moneys, and credits.	Total value of county.
Trumbull	Bristolville	$12 60	
	Girard	5 14	
	Newton Falls	6 64	
	Niles	27 04	
	No. Bloomfield	22 20	
	Warren	91 90	
			$165 52
Tuscarawas	Canal Dover	$28 10	
	Dennison	26 27	
	Lock No. 17	1 00	
	Mineral Point	90	
	New Comerstown	191 01	
	New Phila	17 34	
	Port Washington	27 54	
	Uhrichsville	43 57	
			$335 73
24			
Union	Milford Centre	$4 67	
	Unionville	11 67	
			$16 34
Vinton	Creola	$ 65	
	Hawk's	65	
	McArthur	6 77	
	Minerton	1 17	
	Radcliff	4 94	
			$14 18
Van Wert	Convoy	$15 40	
	Dixon	11 67	
	Middle Point	19 54	
	Van Wert	93 67	
			$140 28
Warren	Foster's	$1 00	
	Kings Mills	1 17	
	Lebanon	4 07	
	Morrow	20 07	
	Oregonia	1 00	
	So. Lebanon	14 70	
	Waynesville	17 60	
			$59 61
Washington	Equity	$ 90	
	Lowell	1 74	
	Marietta	164 74	

Schedule B—(Continued).

Names of counties.	Names of townships, cities, villages, and special school districts.	Value of personal property, moneys, and credits.	Total value of county.
.....	Relief	$3 64	
.....	Swifts	5 37	
.....	Waterford	16 67	
			$193 06
25			
Wayne	Apple Creek	$7 94	
.....	Big Prairie	11 60	
.....	Fredericksburg	10 30	
.....	Marshallville	65	
.....	Orrville	223 07	
.....	Shreve	7 94	
.....	Wooster	214 48	
			$475 98
Wyandotte	Nevada	$15 40	
.....	U. Sandusky	19 14	
			$34 54

SCHEDULE B.—*Showing the Name and Length of Lines of Rail and Water Transportation Over Whish the Company is Doing Business in Ohio.*

Names of lines.		Length of lines.
Bellaire, Zanesville & Cincinnati		112
Cleveland, Akron & Columbus		117
Cincinnati, Portsmouth & Virginia		125
Columbus, Shawnee & Hocking		63
Columbus, Hocking Valley & Toledo		194
Lake Erie, Alliance and Southertown	36	
Alliance & Northern	25	
		61
Lebanon stage		5
Middleton & Cincinnati		15
Ohio & Mississippi		15
Pittsburg, Marion & Chicago		16
Pennsylvania lines		1,445
West Union stage		14
Zanesville & Ohio		74
		2,316

SCHEDULE D.—Return of gross receipts, as contemplated by section 2778 of Revised Statutes of Ohio, as amended May 10, 1894.

NOTE.—In all sums reported omit the use of cents.

26 SCHEDULE D.—Not included in Transcript—by order of court.

See final entry page 45, of Transcript No. 706.

Aside from the real estate mentioned in the accompanying schedules, situated in Hamilton county and there duly assessed for taxation, the Adams Express Company has no property in the State of Ohio, except certain horses, wagons, harness, trucks, safes and office fixtures located at different points. The actual value of this property in money, together with the moneys and credits of the company within the State, is given in Schedule B, hereto attached, together with the location of the various items. The business of the company in the State consists in carrying packages on passenger and express trains, steamboats and stages. The express company has no ownership of nor interest in these means of conveyance, and simply pays to the railroad companies and the owners of steamboats and stage coaches for the passage of its messengers and their accompanying packages. The horses, wagons and trucks are used by it in the collection and delivery of these packages. There is no peculiarity about this property, and it is of the ordinary kind whose true value in money must be measured by the ordinary standards, and is easily ascertained and determined. The company respectfully insists that in ascertaining and determining the value of said property, it is neither necessary nor proper to take into consideration either the par or market value of its shares, nor the character and amount of its property real or personal in other States, nor the amount of gross or net receipts of the company from its business in Ohio or elsewhere. The company insists that property of this kind, which is the only personal property owned or held by it in the State of Ohio, should be valued in its hands as any similar property is valued in the hands of other owners.

The return is made under protest upon the ground that the law compelling it is in contravention of the Constitution of the United States and the State of Ohio.

THE STATE OF OHIO, } *ss:*
County of Franklin, }

On the 6th day of July, 1894, personally appeared before me the undersigned a notary public in and for said Franklin county, H. Bimple who, being duly sworn, says that he is the superintendent of the Adams Express Company and that the foregoing
27 statement is correctly taken from the books of said company and is true to the best of his knowledge and belief.

HENRY BIMPLE.

Subscribed and sworn to before me the day and year above written.

JOHN SNOW,
Notary Public.

And afterwards, to wit, on the 5th day of September, A. D. 1894, an entry was made upon the journal of said court, clothed in the words and figures following, to wit:

Order Book B, p. 612.

Restraining Order to Issue.

To the clerk:

Let an order issue to restrain the defendant in accordance with the prayer of the bill until the hearing and disposition of a motion for a temporary injunction at the October term of this court to be heard at the convenience and order of the circuit judge thereof. Said motion shall be filed within forty-eight hours after the entry of this order, and forthwith after the filing of said motion notice thereof shall be served upon the defendant.

And afterwards, to wit, on the 5th day of September, A. D. 1894, there was issued out of the clerk's office of said court, our certain subpœna in chancery, directed to the marshal of the district and against the defendants herein, said subpœna is clothed in the words and figures following, to wit:

Subpœna in Chancery.

THE UNITED STATES OF AMERICA, } *ss:*
Southern District of Ohio, Eastern Division, }

The President of the United States of America to the marshal of the southern district of Ohio, Greeting:

You are hereby commanded to summon Ebenezer W. Poe, auditor of the State of Ohio, citizen and resident in the State of Ohio, if he be found in your district, to be and appear in the circuit court of the United States for the eastern division of the southern district of Ohio, aforesaid, at Columbus, on the first Monday in
28 November next, to answer a certain bill in chancery, filed and exhibited in said court against him by Henry Sanford, president of the Adams Express Company, a copartnership organized, etc., under the laws of the State of New York, citizen of and resident in the State of New York.

Hereof you are not to fail under the penalty of the law thence ensuing.

And have you then and there this writ.

Witness the Honorable Melville W. Fuller, Chief Justice of the [SEAL.] United States, this 5th day of September, A. D. 1894, and in the 119th year of the Independence of the United States of America.

Attest:

B. R. COWEN, *Clerk*,
By C. P. WHITE, *Deputy*.

MEMORANDUM.—The said defendant is required to enter his appearance in this suit in the clerk's office of said court on or before

the first Monday of October, 1894, otherwise the said bill may be taken *pro confesso*.

B. R. COWEN, *Clerk*,
By C. P. WHITE, *Deputy*.

And afterwards, to wit, on the 5th day of September, A. D. 1894, there was issued out of the clerk's office of said court, the following restraining order, directed to the marshal of the district and against the defendants herein, said restraining order is clothed in the words and figures following, to wit:

Restraining Order Issued.

THE UNITED STATES OF AMERICA, } ss:
Southern District of Ohio, Eastern Division, }

To Ebenezer W. Poe, auditor of the State of Ohio, Greeting:

Whereas, Henry Sanford, president of the Adams Express Company, a copartnership organized, etc., under the laws of the State of New York, citizen of the State of New York, has filed on the
29 chancery side of the circuit court of the United States for the eastern division of the southern district of Ohio, a bill against Ebenezer W. Poe, auditor of the State of Ohio, and has obtained an allowance for a preliminary restraining order as prayed for in said bill.

Now, therefore, we having regard to the matters in said bill contained, do hereby command and strictly restrain you, the said Ebenezer W. Poe, auditor of the State of Ohio, from apportioning or certifying the said assessment made by said State board against it to the auditors of any of the counties of the State in which the complainant does business, to remain in force until the hearing and disposition of a motion for a temporary injunction, which shall be filed by complainant within two days.

Which commands and injunctions you are respectfully required to observe and obey.

Hereof fail not, under the penalty of the law thence ensuing.

[SEAL.] Witness, the Honorable Melville W. Fuller, Chief Justice of the United States, this 5th day of September, A. D. 1894, and in the 119th year of the Independence of the United States of America.

B. R. COWEN,
Clerk U. S. C. C., S. D. O.,
By C. P. WHITE, *Deputy*.

And afterwards, to wit, on the 6th day of September, A. D. 1894, the following motion was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Motion.

United States Circuit Court, Southern District of Ohio, Eastern Division.

HENRY SANFORD
vs.
E. W. POE *et al.* } Motion.

Now comes the complainant and moves the court to grant an injunction *pendente lite*, restraining the defendants, their agents and servants, from certifying to the county auditors of the State of Ohio, and auditors of cities and towns in said State, or any of them, an assessment against the plaintiff, being the assessment set forth in the bill filed in this cause on the ground that said assessment and the act under which said assessment is made, are in violation of the constitutions of the State of Ohio and of the United States and for various other reasons set forth in the bill of complaint.

RAMSEY, MAXWELL & RAMSEY,
Attorneys for Plaintiff.

And afterwards, to wit, on the 15th day of September, A. D. 1894, an order was made upon the order book of said court, clothed in the words and figures following, to wit:

Journal entry—Order Book B, page 614.

Leave to File Amended Bill.

Upon application of the complainant by his attorneys leave is granted to file an amended bill herein forthwith and the same is filed.

And afterwards, to wit, on the 15th day of September, A. D. 1894, the following amendment to bill was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Amendment to Bill.

United States Circuit Court, Southern District of Ohio, Eastern Division.

HENRY SANFORD, President of the Adams Express Company, Plaintiff,
vs.
EBENEZER W. POE, Auditor of the State of Ohio, Defendant. } Amendment to Bill.

To the judges of the circuit court of the United States for the southern district of Ohio, eastern division:

Your orator, Henry Sanford, by leave of court for amendment to his bill, says that the restraining order heretofore allowed

herein although not entered on the records of the court until September 5th, by reason of the fact that said order was allowed at Cleveland, Ohio, was in fact made and allowed and became operative on September 4th; that after said order had been made and this court had acquired jurisdiction of the cause, but before formal notice thereof could be served upon the defendant, he apportioned the total value of the property of your orator's company as assessed by said State board among the several counties, and sent certificates of such apportionment to the various county auditors, who, unless restrained by this court, will forthwith apportion the amounts allotted to their respective counties among the various taxing districts thereof, and place said valuation on the tax duplicate, to the end that taxes may be levied and collected thereon, the same as on other personal property.

But your orator says that the said action of the defendant was taken secretly and surreptitiously in collusion with the State board for the purpose of evading any injunction and of defeating the relief sought by this bill, or any other relief against said illegal proceedings and assessment, the said auditor and State board up to the time of said action still refusing to let your orator's company know the amount of said assessment, and falsely pretending to said company that the same had not been made, and denying to said company all knowledge of the proceedings of said board or access to its minutes or sessions, or any opportunity to apply to said board for the correction of said assessments.

The total amount of the assessments made by said State board against your orator's company is $543,569.

The following are the county auditors to whom said certificate- of apportionment have been issued by the defendant each of whom is and at the commencement of this action was, a citizen of the State of Ohio:

Name of auditor.	County.
James M. Wittemeyer	Adams.
Phillip Walther	Allen.
Cloyd Manfield	Ashland.
Dwight Crowell	Ashtabula.
Augustus J. Frame	Athens.
Joseph A. Henderson	Belmont.
H. L. Jennings	Brown.
Frank X. Duerr	Butler.
George S. Tinlin	Carroll.
Colin McDonald	Champaign.
Luther F. Young	Clark.
Newton Speckman	Coshocton.
Reuben Stahle	Crawford.
C. C. Schellentrager	Cuyahoga.
Lewis C. Kilpstine	Darke.
Lyman B. Lewis	Delaware.
R. F. Brown	Fairfield.
T. J. Lindsay	Fayette.

Wm. H. Halliday.....Franklin.
J. W. Jones .....Gallia.
W. R. Baker.....Greene.
J. E. McClelland.....Guernsey.
John Hagerty.....Hamilton.
Madison M. Thompson .....Hardin.
Henry J. Forker.....Harrison.
James Reese.....Highland.
Nelson Armstrong.....Hocking.
James R. Leeper.....Holmes.
Alfred C. Blackburn.....Jefferson.
John M. Blocher.....Knox.
William D. Corn.....Lawrence.
William Bell, Jr.....Licking.
Charles H. Jones.....Lucas.
W. D. Wilson.....Madison.
Conrad F. Benner.....Mahoning.
Boyd E. Furnas.....Miami.
W. T. Wood.....Monroe.
H. W. Lewis.....Montgomery.
Lewis O. Cooper.....Meigs.
Lewis F. Parsons.....Morgan.
James N. Carr.....Muskingum.
Charles C. Guy.....Perry.
T. J. Morris.....Pickaway.
John T. Adams.....Pike.
S. R. Freeman.....Portage.
W. J. Johnson.....Noble.
W. A. Eidson.....Preble.
John P. Seward.....Richland.
P. White Brown.....Ross.
John Fangboner.....Sandusky.
Joseph T. Tracey.....Scioto.
William Schlosser.....Seneca.
Louis A. Loichot.....Stark.
John Grether.....Summit.
E. P. McCrocle.....Trumbull.
Edgar A. Walter.....Tuscarawas.
Samuel Hudson.....Union.
James H. Cline.....Van Wert.
W. D. Gold.....Vinton.
W. A. Patterson.....Washington.
33 Henry Marshall.....Wayne.
Theodore W. Parker.....Wyandotte.
I. N. Walker.....Warren.

Wherefore your orator prays that each of said county auditors be made party defendant hereto; that they may be enjoined finally, and, meantime, by preliminary order from apportioning said amounts certified to them by the auditor of State among the taxing districts of their respective counties, and from placing said ap-

portioned valuation on the tax duplicate; or from taking any other steps or proceedings under said certificate of the auditor of State.

And your orator further prays that said assessment made by the State board against your orator's company for the year 1894, and the action of the auditor of State in apportioning the same among the various counties and certifying the same to the county auditors may be declared illegal and void; that the defendants, and each of them may be enjoined from taking any proceedings thereunder, and for all other relief to which your orator may be entitled.

RAMSEY, MAXWELL & RAMSEY,
Attorneys for Plaintiff.

And afterwards, to wit, on the 15th day of September, A. D. 1894, an order was made upon the journal of said court, clothed in the words and figures following, to wit:

Order—Order Book B, page 614.

Restraining Order to Issue to County Auditors.

Let a preliminary order issue against each of the defendants named in the amendment to the bill herein restraining them from apportioning the amounts certified to them by the auditor of State among the taxing districts at their respective counties and from placing said apportioned valuation on the tax duplicate or from taking any other steps or proceedings under said certificates of the auditor of State. This order to remain in force until disposition of order heretofore granted herein.

And afterwards, to wit, on the 17th day of September, A. D. 1894, the following appearance was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

34 *Appearance of Defendants.*

United States Circuit Court, Southern District of Ohio, Eastern Division.

HENRY SANFORD, President of the Adams Express Co.,
vs.
EBENEZER W. POE, Auditor of State.

To the clerk:

Please enter our appearance as solicitor and of counsel on behalf of the defendant, Ebenezer W. Poe, auditor of State.

J. K. RICHARDS,
Attorney General.
THOS. McDOUGALL,
Solicitor for Defendant.

And afterwards, to wit, on the 22nd day of September, A. D. 1894, the following restraining order was issued out of the clerk's office

of said court, directed to the marshal of the district; said restraining order is clothed in the words and figures following, to wit:

Restraining Order Issued.

THE UNITED STATES OF AMERICA, } ss:
Southern District of Ohio, Eastern Division, }

To P. White Brown, auditor of Ross county, Ohio, Greeting:

Whereas, Henry Sanford, president of the Adams Express Company, a copartnership organized and existing under the laws of the State of New York, citizen of the State of New York, has filed on the chancery side of the circuit court of the United States, for the eastern division of the southern district of Ohio, a bill against Ebenezer W. Poe, auditor of the southern district of Ohio, also an amendment to the bill wherein the auditors of the various counties wherein complainant does business are made party defendants and has obtained an allowance for a preliminary restraining order as prayed for in said bill as amended. Now, therefore, we having regard to the matters in said bill contained, do hereby command and strictly restrain you, the said P. White Brown, auditor of Ross county, Ohio, from apportioning the amount certified to you by the auditor of the State of Ohio, and from placing said apportioned valuation on the tax duplicate of your said county, and from taking any other steps or proceedings under said certificates of said auditor of State until the disposition of an order heretofore granted herein.

Which commands and injunctions you are respectively required to observe and obey.

Hereof fail not, under the penalty of the law thence ensuing.

Witness, the Honorable Melville W. Fuller, Chief Justice [SEAL.] of the United States of America, this 22nd day of September, A. D. 1894, and in the 119th year of the Independence of the United States of America.

B. R. COWEN,
Clerk U. S. C. C., S. D. O.,
By C. P. WHITE, *Deputy.*

And afterwards, to wit, on the 22nd day of September, A. D. 1894, there was issued out of the clerk's office of said court our certain restraining order, directed to the marshal of the northern district of Ohio; said restraining order is clothed in the words and figures following, to wit:

Restraining Order Issued to the Northern Dist. of Ohio.

THE UNITED STATES OF AMERICA, } ss:
Southern District of Ohio, Eastern Division, }

The President of the United States of America to S. R. Freeman, auditor of Portage county, Ohio, Greeting:

Whereas, Henry Sanford, president of the Adams Express Company, a copartnership organized and existing under the laws of the

State of New York, citizen of the State of New York, has filed on the chancery side of the circuit court of the United States for the eastern division of the southern district of Ohio, a bill against
36 Ebenezer W. Poe, auditor of the State of Ohio; also an amendment to the bill, wherein the auditors of the various counties in which complainant herein does business are made party defendants, and has obtained an allowance for a preliminary restraining order as prayed for in said bill as amended:

Now, therefore, we having regard to the matters in said bill contained, do hereby command and strictly restrain you, the said S. R. Freeman, auditor of Portage county, Ohio, from apportioning the amount certified to you by the auditor of the State of Ohio, and from placing said apportioned valuation on the tax duplicate of your said county, and from taking any other steps or proceedings under said certificates of said auditor of State until the disposition of an order heretofore granted herein.

Which commands and injunctions you are respectively required to observe and obey.

Hereof fail not, under the penalty of the law thence ensuing.

Witness the Honorable Melville W. Fuller, Chief Justice
[SEAL.] of the United States, this 22nd day of September, A. D. 1894, and in the 119th year of the Independence of the United States of America.

B. R. COWEN,
Clerk U. S. C. C., S. D. O.,
By C. P. WHITE, *Deputy.*

And afterwards, to wit, on the 26th day of September, A. D. 1894, the following exceptions to bill *was* filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Exceptions to Bill.

Circuit Court of the United States, Southern District of Ohio, Eastern Division.

THE ADAMS EXPRESS COMPANY
vs.
EBENEZER W. POE, Auditor of the State of Ohio. } No. —.

Exceptions on account of impertinent and scandalous matter, taken by the defendant to the bill of complaint, as amended.

37 First exception. For that the following allegations on page 6, in lines 5 to 11, namely, "and not in the exercise of their individual judgment of the true value in money of said company's property in the State," also, "wrongfully pretending that said sum is the value of said company's property in the State of Ohio," are impertinent and ought to be expunged.

Second exception. For that the matter contained on pages 11, 12, 13, and in the first 8 lines on page 14, of the original bill, filed September 5, 1894, respecting the mandamus suit decided by the su-

preme court of Ohio, on or about June 17, 1894, is impertinent and scandalous, and ought to be expunged.

Third exception. For that the matter contained in the second paragraph on page 14, of the original bill, filed September 5, 1894, from and including line 9 to the bottom of the page is impertinent and ought to be expunged.

Fourth exception. For that the matter contained in the amendment filed September 15, 1894, is impertinent and ought to be expunged.

In all which particulars the defendant insists that the bill of complaint, as amended, is irrelevant, impertinent and scandalous; wherefore, the defendant does except thereto, and humbly prays that the impertinence and scandal of the said bill of complaint excepted to as aforesaid, may be expunged with costs.

J. K. RICHARDS,
Attorney General.
THOS. McDOUGALL,
Of Counsel.

And afterwards, to wit, on the 26th day of October, A. D. 1894, came the marshal of the district to whom the aforesaid restraining order was in form directed and returned the same in the clerk's office of said court, with his proceedings thereon endorsed in the words and figures following, to wit:

38 *Marshal's Return of Restraining Order.*

UNITED STATES OF AMERICA, }
Southern District of Ohio, } *ss:*

Received this writ at Columbus, Ohio, September 24, 1894; and on September 29, 1894, served on within-named auditor at his office in Chillicothe, with a true and certified copy.

HENRY BOHL,
United States Marshal,
By W. E. MASON, *Deputy.*

And afterwards, to wit, on the 8th day of November, A. D. 1894, came the marshal of the district to whom the aforesaid restraining order was in form directed and returned the same into the clerk's office of said court, with his proceedings thereon endorsed in the words and figures following, to wit:

Restraining Order Returned.

NORTHERN DISTRICT OF OHIO, *ss:*

The within-named S. R. Freeman, auditor of Portage county, not found.

A. C. HASKEL,
United States Marshal.

And afterwards, to wit, on the 1st day of December, A. D. 1894, came the marshal of the district to whom the above subpœna was

in form directed and returned the same into the clerk's office of said court, with his proceedings thereon endorsed in the words and figures following, to wit:

Marshal's Return of Subpœna.

SOUTHERN DISTRICT OF OHIO, } ss:
Eastern Division, }

Received this writ at Columbus, Ohio, September 6, 1894, and on the same day at Columbus, Ohio, I served Ebenezer W. Poe, personally by handing him a true and certified copy of this writ with all the endorsements thereon.

HENRY BOHL,
United States Marshal,
By A. M. CAMPBELL, *Deputy.*

Fees: Total $2.56.

39 And afterwards, to wit, on the 1st day of December, A. D. 1894, came the marshal of the district to whom the aforementioned restraining orders were in form directed and returned the same into the clerk's office of said court, with his proceedings thereon endorsed in the words and figures following, to wit:

Marshal's Return of Restraining Orders.

SOUTHERN DISTRICT OF OHIO, } ss:
Eastern Division, }

Received this writ at Columbus, Ohio, September 6, A. D. 1894, and on the same day I served Ebenezer W. Poe, personally by handing him a true and certified copy of this writ with all the endorsements thereon.

HENRY BOHL,
United States Marshal,
By A. M. CAMPBELL, *Deputy.*

Fees: Total, $2.56.

And afterwards, to wit, on the 21st day of December, A. D. 1894, the following motion was filed in the clerk's office of said court clothed in the words and figures following, to wit:

Motion to Dissolve Injunction.

United States Circuit Court, Southern District of Ohio, Eastern Division.

HENRY SANFORD, President,
vs.
EBENEZER W. POE, Auditor of the State of Ohio, Defendant.

Now comes the defendant, and moves the court to dissolve the preliminary injunction heretofore granted herein.

THOS. McDOUGALL,
Solicitor and of Counsel for Defendant.

And afterwards, to wit, on the 21st day of December, A. D. 1894, the following demurrer to bill was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

40 *Demurrer to Bill.*

United States Circuit Court, Southern District of Ohio, Eastern Division.

HENRY SANFORD, President of Adams Express Company,
vs.
EBENEZER W. POE, Auditor of the State of Ohio, Defendant. } No. —.

The demurrer.

The demurrer of the above-named defendant to the bill of complaint of the above-named complainant.

This defendant, by protestation, not confessing or acknowledging all or any of the matters or things in the said bill of complaint, to be true in such manner and form as the same are therein set forth and alleged, doth demur to the said bill. And for cause of demurrer shows,

That it appeareth by the complainant's own showing in the said bill, that it is not entitled to the relief prayed by the bill against this defendant.

Wherefore, and for divers other good causes of demurrer appearing on the said bill, this defendant doth demur thereto. And he prays the judgment of this honorable court, whether he shall be compelled to make any answer to the said bill, and he humbly prays that said bill be dismissed with his reasonable costs in this behalf sustained.

J. K. RICHARDS,
Attorney General.
THOS. McDOUGALL,
Solicitor and of Counsel for Defendant.

I hereby certify that the foregoing demurrer is in my opinion well founded in point of law.

J. K. RICHARDS,
Of Counsel for Defendant.

STATE OF OHIO, }
Franklin County, } *ss:*

Ebenezer W. Poe, being duly sworn deposes and says: I am the above-named defendant, the foregoing demurrer is not interposed for delay.

E. W. POE.

Signed and sworn to before me this 30th day of November, 1894.

JNO. L. LOTT,
[SEAL.] *Notary Public, Franklin County, Ohio.*

41 And afterwards, to wit, on the 21st day of December, A. D. 1894, the following demurrer was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Demurrer to Bill.

United States Circuit Court, Southern District of Ohio, Eastern Division.

HENRY SANFORD, President, &c., Complainant,
vs.
EBENEZER W. POE, Auditor of the State of Ohio, Defendant.

Demurrer of Wm. H. Halliday, auditor of Franklin county, to the amended bill of the complainant herein.

This defendant, Wm. H. Halliday, by protestation, not confessing or acknowledging all or any of the matters or things in the said amended bill of complaint to be true, in such manner and form as the same are therein set forth and alleged, doth demur to the said bill, and for causes of demurrer shows:

1. That it appears by the said amended bill that complainant is not entitled to the relief prayed by the bill against this defendant.

2. That it appears by the said amended bill that the parties therein named as defendants are improperly joined as such, and that this defendant is not properly made a party defendant thereto.

3. That the said amended bill as exhibited against this said defendant, and against the several other defendants thereto, contains several and distinct and independent matters and causes which have no relation to each other, and which are improperly and unlawfully joined therein.

4. That it does not appear by said amended bill what amount is involved in the cause of action between the complainant and this defendant, so as to give this court jurisdiction herein.

Therefore, and for divers other good causes of demurrer appearing on the said bill, this defendant doth demur thereto. And he prays the judgment of this honorable court whether he shall be
42 compelled to make any answer to the said amended bill, and he humbly prays that it be dismissed with his reasonable costs in this behalf sustained.

J. K. RICHARDS,
Attorney General.
THOS. McDOUGALL,
Solicitor and of Counsel for Defendant.

I hereby certify that the foregoing demurrer is in my opinion well founded in point of law.

J. K. RICHARDS,
Of Counsel for D'f't.

STATE OF OHIO, } ss:
County of Franklin, }

William H. Halliday, being duly sworn, says that he is the above-named defendant herein, and that the foregoing demurrer is not interposed for delay.

W. H. HALLIDAY.

Sworn to before me and subscribed in my presence this 20th day of December, A. D. 1894.

[SEAL.] JOHN K. LOTT,
Notary Public, Franklin County, Ohio.

And afterwards, to wit, on the 21st day of December, A. D. 1894, the following proceedings of the State board of appraisers was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Proceedings of State Board of Appraisers.

Proceedings of State board of appraisers. Same as in case No. 705. Omitted from transcript by stipulation.

And afterwards, to wit, on the 8th day of April, A. D. 1895, the following opinion of Judge W. H. Taft was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Opinion of Judge W. H. Taft. Same as in case No. 705. Omitted from transcript by stipulation.

And afterwards, to wit, on the 3rd day of May, A. D. 1895, the following amendment to bill was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

43 *Amendment to Bill.*

Circuit Court of the United States, Southern District of Ohio, Eastern Division.

HENRY SANFORD, President, &c., } Amendment to Bill.
vs.
E. W. POE, Auditor, *et al.* }

The plaintiff, by leave of court, for amendment to his bill says that even if said act of the General Assembly of Ohio is valid said assessment of $— made against his company is not valid because it was not made in accordance with law or upon the basis of the true value in money of the company's property within the State of Ohio.

Since the filing of the original bill, and immediately upon the assessment of taxes in the State of Ohio for the year 1894, said company tendered and paid to the various county treasurers through

out the State the taxes admitted in the bill to be due on its property in the State.

RAMSEY, MAXWELL & RAMSEY,
Attorneys for Plaintiff.

And afterwards, to wit, on the 3rd day of May, A. D. 1895, an entry was made upon the journal of said court, clothed in the words and figures following, to wit:

Journal entry—Journal C, p. 36.

Final Entry.

HENRY SANFORD, Pres't, etc., }
v.
E. W. POE, Auditor, etc., *et al.* }

This day came the plaintiffs in the above-entitled suits and by leave of court filed further amendments of their bills, the defendants agreeing that upon the consideration of the demurrers to the bills as so amended, and of the motions to dissolve the injunctions, each of the plaintiffs shall have the benefit not only of the averments of his bill, but also of the statements set forth in Exhibits "A" to the three bills and of the proceedings of the State board upon said returns in making the assessments against the three companies and of any conclusions of law or fact to be deduced from said proceedings and assessments, the same as if said facts and proceedings were incorporated into each of the bills by amendment. The three suits being heard together so that the validity of the assess-
44 ment against each company may be considered in connection with the facts relating to the returns and assessments of all of the companies. And thereupon the motions to dissolve the injunctions and the demurrers to the bills, as amended, are submitted to the court under said stipulation; on consideration whereof the court grants said motions and sustains said demurrers. The injunctions are accordingly dissolved and the bills dismissed at the costs of the plaintiffs. Thereupon the plaintiffs present their petitions for appeal to the United States circuit court of appeals for the sixth circuit, and their assignments of error, and the appeals are allowed in each case in open court. On the application of the plaintiffs it is ordered that the order dissolving the injunctions be, and the same are hereby suspended pending the appeals until or unless otherwise ordered by the circuit court of appeals, but upon condition that the appeals shall be docketed forthwith, so that they may be heard at the May term of the circuit court of appeals. It is further ordered that the restraining orders and the subpœnas and the returns thereon against the various county auditors may be omitted from the transcripts on appeal, except the restraining order and subpœena as to one of said county auditors, the rest being similar and their repetition being, therefore, a useless incumbrance of the transcripts; and also that the Schedules "D" to Exhibits "A" may

be omitted, the summary of the gross receipts contained in said schedules being shown elsewhere in the reports.

May 3, '95.

WM. H. TAFT,
Circuit Judge.

And afterwards, to wit, on the 3rd day of May, A. D. 1895, the following petition for appeal and assignment of errors was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Petition for Appeal and Assignment of Errors.

United States Circuit Court, Southern District of Ohio, Eastern Division.

HENRY SANFORD, President, *vs.* E. W. POE *et al.* } No. 706. Petition for Appeal and Assignment of Errors.

The plaintiff prays an appeal from the final decree of this court to the United States circuit court of appeals for the sixth circuit, and assigns for error:

45 1. That the court erred in sustaining the demurrer to the bill and in dismissing the bill.

2. That the court erred in granting the motion to dissolve the temporary injunction.

The plaintiff prays that the order dissolving the temporary injunction may be suspended pending the appeal.

RAMSEY, MAXWELL & RAMSEY,
Plaintiff's Attorneys.

And afterwards, to wit, on the 3d day of May, A. D. 1895, the following supersedeas bond was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

Supersedeas Bond.

Know all men by these presents that Henry Sanford, president of the Adams Express Company, as principal, and W. M. Barrett, as surety, are held and firmly bound unto the defendants in the case of Henry Sanford, president of the Adams Express Company *vs.* E. W. Poe *et al.*, No. 706, United States circuit court for the southern district of Ohio, eastern division, their executors, administrators, and assigns, in the sum of five hundred dollars ($500); for the payment of which, well and truly to be made, they bind themselves, their successors, administrators, and executors, jointly and severally, by these presents.

Dated this third day of May, in the year of our Lord one thousand eight hundred and ninety-five.

46 Whereas the above-named Henry Sanford, president of the Adams Express Company, has prosecuted an appeal to the

United States circuit court of appeals for the sixth circuit to reverse a decree rendered by the circuit court of the United States for the southern district of Ohio, eastern division, in said case of Henry Sanford, president of the Adams Express Company, plaintiff, *vs.* E. W. Poe *et al.*, defendants:

Now, therefore, the condition of this obligation is such that if the said Henry Sanford, president, shall prosecute said appeal to effect and answer all damages and costs if he fail to make said appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

HENRY SANFORD, *President*,
By LAWRENCE MAXWELL, JR., *Att'y.*
W. M. BARRETT.

47 UNITED STATES OF AMERICA, }
Southern District of Ohio, Eastern Division, } *ss:*

I, Benjamin R. Cowen, clerk of the circuit court of the United States of America within and for the division and district aforesaid, do hereby certify that the foregoing is a true and complete transcript in accordance with the final entry and as the same appears of record and on file in the clerk's office of said court.

In testimony whereof I have hereunto set my hand and [SEAL.] affixed the seal of said court, at the city of Columbus, Ohio, this 18th day of May, 1895.

B. R. COWEN, *Clerk*,
By JANIE W. F. COWEN,
Deputy Clerk.

48 And afterwards, to wit, on May 21st, 1895, an order was made and entered upon the minutes of this court, clothed in the words and figures following, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

HENRY SANFORD, Pres., etc., *vs.* E. W. POE *et al.* } No. 322. Appeal from the Circuit Court of the United States for the Southern District of Ohio.

This day came the attorney general of the State of Ohio and moved that the above-entitled case be continued until the October term; to which counsel for the appellants object unless the attorney general stipulates that the assessments against the appellants for the year 1895 shall not be certified to the county auditors pending the decision of this court on this appeal.

And thereupon said motion of the attorney general is overruled, and it is ordered that the case be set for argument at the foot of the calendar for the June session unless continued meantime by stipulation in accordance with the appellants' suggestion aforesaid.

And afterwards, to wit, on June 4th, 1895, the following order was entered upon the minutes of said court, clothed in the words and figures following, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

HENRY SANFORD, Pres., etc., *vs.* E. W. POE *et al.* } No. 322. Appeal from the Circuit Court of the United States for the Southern District of Ohio.

49 This cause came on to be heard and was argued in part by Mr. Lawrence Maxwell, Jr., for the appellants and by Mr. Thomas McDougall for the appellees, and the hearing was continued until tomorrow.

And afterwards, to wit, on June 5th, 1895, there was entered on the minutes of said court the following order, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

HENRY SANFORD, Pres., etc., *vs.* E. W. POE *et al.* } No. 322. Appeal from the Circuit Court of the United States for the Southern District of Ohio.

This cause came on to be further argued this day and was argued by Mr. J. K. Richards, attorney general of Ohio, for the appellees, and by Mr. Lawrence Maxwell, Jr., for the appellants, and was submitted to the court.

And afterwards, to wit, on July 15th, 1895, the court delivered an opinion in said cause, which is in the transcript of record in the case of Henry Sanford, pres., etc., *v.* E. W. Poe *et al.*, No. 321.

50 And afterwards, on the same day, to wit, on July 15th, 1895, the following decree was entered in said cause, which reads and is in the words and figures following, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

HENRY SANFORD, Pres., etc., *vs.* E. W. POE *et al.* } No. 322. Appeal from the Circuit Court of the United States for the Southern District of Ohio.

This cause came on to be heard on the transcript of record from the circuit court of the United States for the southern district of Ohio and was argued by counsel.

On consideration whereof it is now here ordered, adjudged, and decreed that the decree of the circuit court in this cause be, and the same is hereby, affirmed with costs.

And afterwards, to wit, on August 3rd, A. D. 1895, a petition for appeal and an assignment of errors were filed in this court, which read and are in the words and figures following, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

HENRY SANFORD, President of the Adams Express Company,
vs.
EBENEZER W. POE *et al.*

No. 322. Petition for Appeal and Assignment of Errors.

The appellant prays an appeal from the decree of this court, affirming the decree of the circuit court of the United States
51 for the southern district of Ohio, and assigns for error:

1. The several assignments of error set out in the assignment of errors before this court.

2. That this court erred in affirming the decree of the circuit court and should have reversed the same.

3. That the assessment complained of is not in fact an assessment against the appellant's company in respect of its property held or owned by it in the State of Ohio, but is really an attempt to enforce against the appellant's company, under the guise of taxing its property within the State, the payment of a tax upon its business, which is largely interstate commerce, or for the privilege of doing such business in this State by placing a fictitious and artificial value upon its property, and the appellant insists that said assessment and the statute of Ohio purporting to authorize the same are therefore in contravention of the Constitution of the United States, and especially of the interstate-commerce clause of section 8, article 1; section 2, article 4, and of section 1, article 14.

The appellant also prays for an order continuing the temporary injunction ordered by the circuit court pending the appeal in the Supreme Court of the United States.

LAWRENCE MAXWELL, JR., *Counsel.*

Appeal allowed, supersedeas fixed at $11,000.00, and it is ordered that the injunction granted by the circuit court continue in force, pending the appeal in the Supreme Court of the United States, until or unless otherwise ordered by the Supreme Court.

HORACE H. LURTON,
Circuit Judge and Judge U. S. C. Appeals for 6th Circuit.

Aug. 1, 1895.

52 And afterwards, on the same day, to wit, August 3rd, A. D. 1895, the following order was entered upon the minutes of said court, which reads and is in the words and figures following, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

HENRY SANFORD, Pres., etc., *vs.* E. W. POE *et al.* | No. 322. Appeal from the Circuit Court of the United States for the Southern District of Ohio.

Upon presentation of petition for appeal to the Supreme Court of the United States and assignment of errors it is hereby ordered as follows, to wit:

Appeal allowed, supersedeas fixed at $11,000.00, and it is further ordered that the injunction granted by the circuit court continue in force, pending the appeal in the Supreme Court of the United States, until or unless otherwise ordered by the Supreme Court.

53 And afterwards, to wit, on August 7th, A. D. 1895, the following bond was filed in this cause, which reads and is in the words and figures following, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

HENRY SANFORD, Pres., etc., *vs.* E. W. POE *et al.* | No. 322. Appeal from the Circuit Court of the United States for the Southern District of Ohio.

Supersedeas Bond.

Know all men by these presents that Henry Sanford, president of the Adams Express Company, as principal, and W. M. Barrett and L. C. Weir, as sureties, are held and firmly bound unto the appellees in the case of Henry Sanford, president of the Adams Express Company, appellant, *vs.* E. W. Poe *et al.*, appellees, No. 322 in the United States circuit court of appeals for the sixth circuit, their executors, administrators, and assigns, in the sum of eleven thousand dollars; for the payment of which, well and truly to be made, they bind themselves, their successors, administrators, and executors, jointly and severally, by these presents.

Done this first day of August, in the year of our Lord one thousand eight hundred and ninety-five.

Whereas the above-named Henry Sanford, president of the Adams Express Company, has prosecuted an appeal to the Supreme Court of the United States to reverse a decree rendered by the United States circuit court of appeals for the sixth circuit in said case of Henry Sanford, president of the Adams Express Company, appellant, *vs.* E. W. Poe *et al.*, appellees:

Now, therefore, the condition of this obligation is such that
54 if the said Henry Sanford, president, shall prosecute said appeal to effect and answer all damages and costs if he fail to

make said appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

HENRY SANFORD, *President,*
By LAWRENCE MAXWELL, JR.
W. M. BARRETT.
L. C. WEIR.

Accepted and approved.

H. H. LURTON, *Judge.*

August 1st, 1895.

55 The Supreme Court of the United States to Ebenezer W. Poe, auditor of the State of Ohio; James M. Wittemeyer, Phillip Walther, Cloyd Manfield, Dwight Crowell, Augustus J. Frame, Joseph A. Henderson, H. L. Jennings, Frank X. Duerr, George S. Tinlin, Colin McDonald, Luther F. Young, Newton Speckman, Reuben Stahle, C. C. Schellentrager, Lewis C. Kilpstine, Lyman B. Lewis, R. F. Brown, T. J. Lindsay, Wm. H. Halliday, J. W. Jones, W. R. Baker, J. E. McClelland, John Hagerty, Madison M. Thompson, Henry J. Forker, James Reese, Nelson Armstrong, James R. Leeper, Alfred C. Blackburn, John M. Blocher, William D. Corn, William Bell, Jr., Charles H. Jones, W. D. Wilson, Conrad F. Benner, Boyd E. Furnas, W. T. Wood, H. W. Lewis, Lewis O. Cooper, Lewis F. Parsons, James N. Carr, Charles C. Guy, T. J. Morris, John T. Adams, S. R. Freeman, W. J. Johnson, W. A. Eidson, John P. Seward, P. White Brown, John Fangboner, Joseph T. Tracey, William Schlosser, Louis A. Loichot, John Grether, E. P. McCrocle, Edgar A. Walter, Samuel Hudson, James H. Cline, W. D. Gold, W. A. Patterson, Henry Marshall, Theodore W. Parker, I. N. Walker.

56 The Supreme Court of the United States to Ebenezer W. Poe, auditor of the State of Ohio; John K. Richards, attorney general of the State of Ohio, and William T. Cope, treasurer of the State of Ohio, Greeting:

You are hereby cited and admonished to be and appear at a session of the Supreme Court of the United States, to be holden at the city of Washington, in the District of Columbia, on the 1 day of Sept. next, pursuant to an appeal filed in the clerk's office of the United States circuit court of appeals for the sixth circuit, wherein Henry Sanford, president of the Adams Express Company, is appellant and you are appellees, to show cause, if any there be, why the decree rendered against the said appellant, as in the appeal mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, this 1 day of Aug., in the year of our Lord one thousand eight hundred and ninety-five, and of the Independence of the United States of America the one hundred and —.

HORACE H. LURTON,
Circ. Judge & Judge U. S. C. Appeals, 6th Circ.

Aug. 1, 1895.
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Receipt of a copy of the foregoing acknowledged August 20, 1895.

J. K. RICHARDS,
Attorney General.

57 United States Circuit Court of Appeals for the Sixth Circuit.

I, Frank O. Loveland, clerk of the United States circuit court of appeals for the sixth circuit, do hereby certify that the foregoing is a true and correct copy of the record, together with the original citation, in the case of Henry Sanford, president of the Adams Express Company, *vs.* Ebenezer W. Poe, auditor of the State of Ohio, *et al.*, No. 322, October term, 1894, as the same remains upon the files and records of said United States circuit court of appeals for the sixth circuit and of the whole thereof.

Seal United States Circuit Court of Appeals, Sixth Circuit.

In testimony whereof I hereunto subscribe my name and affix the seal of said United States circuit court of appeals for the sixth circuit, at the city of Cincinnati, Ohio, this eighteenth day of September, 1895.

FRANK O. LOVELAND,
Clerk of the United States Circuit Court of Appeals for the Sixth Circuit.

58 [Endorsed:] United States circuit court of appeals for the sixth circuit. Henry Sanford, president of the Adams Express Co., *vs.* Ebenezer W. Poe, auditor of the State of Ohio, *et al.* Certificate for copy of record.

59 Supreme Court of the United States, October Term, 1896.

HENRY SANFORD, President, etc., *vs.* E. W. POE, Auditor, etc. } No. 337.

HENRY SANFORD, President, etc., *vs.* E. W. POE, Auditor, etc. } No. 338.

JAMES C. FARGO, President, etc., *vs.* E. W. POE, Auditor, etc. } No. 339.

THOMAS C. PLATT, President, etc., *vs.* E. W. POE, Auditor, etc. } No. 340.

WESTERN UNION TELEGRAPH COMPANY *vs.* E. W. POE, Auditor, etc. } No. 352.

Stipulation.

The appellants propose to print in a separate pamphlet all of the opinions delivered in these cases in the circuit court and in the circuit court of appeals, also the opinion of the supreme court of Ohio in the case of State *ex rel. vs.* Jones, and also the Ohio taxing statutes of 1893 and 1894 involved in these cases. It is therefore agreed that the various opinions and statutes may be omitted in the printing of the records.

LAWRENCE MAXWELL, JR.,
Counsel for Appellant.
FRANK S. MONNETT,
Attorney General of Ohio.
J. K. RICHARDS,
Of Counsel for Appellees.

(Endorsed:) Case No. 16,027, &c. Supreme Court U. S., October term, 1896. Term Nos., 337, 338, 339, 340, & 352. Sanford, pres't, *v.* Poe, auditor; Same *v.* Same; Fargo, pres't, &c., *v.* Poe, auditor; Platt, pres't, *v.* Poe, auditor; W. U. Tel. Co. *v.* Poe, auditor. Stipulation to omit parts of record in printing. Filed July 10, 1896.

Endorsed on cover: Case No. 16,028. U. S. circuit court of appeals, sixth circuit. Term No., 338. Henry Sanford, president of the Adams Express Company, appellant, *vs.* Ebenezer W. Poe, auditor of the State of Ohio, *et al.* Filed September 23rd, 1895.